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362164

DATE: December 20, 1976

Mr. P. Scott Courtin  
Reid, Ochsenchallager, Murphy & Hupp  
75 S. Stolp Avenue  
P.O. Box 1368  
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Mr. Arthur Brody  
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Mr. Stephen Jennings, H.O.  
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Suite A  
102 N. Cook Street  
Barrington, Illinois 60010

PCB76-104

ENVIRONMENTAL PROTECTION AGENCY

v.

D & N TRUCKING, INC. ET AL

Enclosed please find a certified copy of the ORDER  
of the Board adopted on December 16, 1976 in the above captioned matter

Very truly yours,

*Christen L. Moffett*

Christen L. Moffett  
Clerk of the Board

Copies also to: Mr. Jeffery R. Diver, Deputy Director, Illinois EPA (6)  
Mr. Richard W. Cosby, Chief, Environmental Control Division

ILLINOIS POLLUTION CONTROL BOARD  
December 16, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 76-104  
 )  
D & N TRUCKING, INC., an Illinois )  
Corporation, DAVID H. THOM, )  
ROSE K. PHILLIPS and DOLORES THOM, )  
 )  
Respondents. )

ORDER OF THE BOARD (by Dr. Satchell):

On December 9, 1976 Respondents, D & N Trucking, Inc., David H. Thom and Dolores Thom, filed a Motion to Modify and Clarify the Pollution Control Board's Order in PCB 76-104 decided on November 10, 1976. Because of Respondents' apparent confusion the Board will modify the final opinion and order. On page four, paragraphs five and six shall read:

Under Procedural Rule 333 the Board finds the stipulation acceptable. The Board finds, based on the stipulation, that Respondent D & N Trucking has been in violation of all the Board's Regulations and the Sections of the Act as alleged in the complaint. The Board notes that closing the site will remedy most of the environmental harm. The monitoring wells would then be an adequate indicator of the need for further corrective measures.

Respondents David H. Thom, Rose K. Phillips and Dolores Thom signed the stipulation but did not admit violations. Rose K. Phillips and Dolores Thom agreed to allow unhindered access to the site. Rose K. Phillips and Dolores Thom are therefore dismissed conditioned on the allowance of access to the site. Respondent David H. Thom is dismissed for lack of prosecution.

On page five, numbers 1, 3, and 4 of the Order shall be changed as follows:

1. Respondent D & N Trucking is found to be in violation of Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Environmental Protection Act; Rules 302, 303(a), 303(b), 305(a), 305(b), 305(c), 314(a), and 314(h) of the Regulations and Section 21(b) of the Act.
3. David H. Thom is dismissed as a respondent.

4. Dolores Thom and Rose K. Phillips are dismissed conditioned upon the allowance of access by D & N Trucking at the site.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 16<sup>th</sup> day of December, 1976 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board